

**...that the United States government continues to detain many asylum seekers in jails or jail-like facilities?**

Between July and December 2012, USCIRF staff toured 10 detention facilities nationwide and met with asylum seekers and officials from the Department of Homeland Security's Immigration and Customs Enforcement Agency (ICE). The goal of the tour was to assess ICE's progress implementing reforms announced in 2009 that would create a new immigration detention system with facilities based on civil, not penal, models in locations with access to legal, medical, and transportation services. The announced reforms reflect USCIRF recommendations that, when detention is necessary, asylum seekers in Expedited Removal should be held in such civil models. Detaining asylum seekers under penal conditions with criminals may retraumatize this vulnerable population and cause them prematurely to withdraw their asylum claims.

As described in a recently-issued [report](#), USCIRF found that ICE has made some positive changes by housing more asylum seekers under non-penal conditions, including by establishing four civil detention facilities for asylum seekers and other low level immigrant detainees. However, not all facilities housing asylum seekers are civil detention facilities: only about 4,000 of ICE's 33,400 detention beds are in civil facilities. Asylum seekers in non-civil detention facilities are granted little or no freedom of movement and little privacy. Guards are armed, monitoring is constant, and asylum seekers must wear prison-like jumpsuits.

In addition, the rural locations of many of the facilities where asylum seekers are detained continue to make it very difficult for individuals to obtain legal advice. According to the NGO Human Rights First, 40 percent of ICE's current bed space is more than 60 miles away from an urban center. Lack of counsel not only disadvantages the detainees but also burdens the system, since unrepresented cases are more difficult and time consuming for adjudicators to

decide. Remote locations and a shortage of immigration judges mean that more hearings, including merits hearings, are now being conducted by video teleconference (VTC), raising fair-hearing and effective-representation concerns.

USCIRF also reiterated in the report its longstanding recommendation that DHS asylum officers should be able to decide the cases of asylum seekers in Expedited Removal found to have “credible fear,” as they have the authority to do for other asylum seekers. This authority would result in fewer asylum cases needing to go to the overburdened immigration courts and fewer asylum seekers being held in detention. This recommendation is included in the bipartisan immigration reform bill currently pending in the Senate (S. 744).

Given that many individuals fleeing religious persecution seek asylum in the United States, the International Religious Freedom Act of 1998 (IRFA) authorized USCIRF to examine whether asylum seekers subject to Expedited Removal were being detained under inappropriate conditions or being returned to countries where they might face persecution. USCIRF released its findings in the 2005 [\*Report on Asylum Seekers in Expedited Removal\*](#). That report found serious flaws in both the processing and detention of asylum seekers in Expedited Removal and issued recommendations, none of which required Congressional action, to the relevant agencies in DHS and the Department of Justice (DOJ).